

**STATE OF TEXAS**  
**DEPARTMENT OF INFORMATION RESOURCES**  
**CONTRACT FOR PRODUCTS AND RELATED SERVICES**  
**SPRINT SOLUTIONS, INC.**

**1. Introduction**

**A. Parties**

This Contract for products and related services is entered into between the State of Texas, acting by and through the Department of Information Resources (hereinafter “DIR”) with its principal place of business at 300 West 15<sup>th</sup> Street, Suite 1300, Austin, Texas 78701, and Sprint Solutions, Inc. (hereinafter “Vendor”), with its principal place of business at 12502 Sunrise Valley Drive, Reston, VA 20196.

**B. Compliance with Procurement Laws**

This Contract is the result of compliance with applicable procurement laws of the State of Texas. DIR issued a solicitation on the Comptroller of Public Accounts’ Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-234, on December 9, 2015, for Hardware, Software and Services for Wireless Voice, Data, Pagers and Mobile Satellite Voice. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-234 shall be posted by DIR on the Electronic State Business Daily.

**C. Order of Precedence**

For purchase transactions under this Contract, the order of precedence shall be as follows: this Contract; Appendix A, Standard Terms and Conditions For Products and Related Services Contracts; Appendix B, Vendor’s Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Customer Service Agreement Terms including all Annexes; Exhibit 1, Vendor’s Response to RFO DIR-TSO-TMP-234, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-234, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor governing purchase transactions. In the event of a conflict between the documents listed in this paragraph related to purchases, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

**2. Term of Contract**

The term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor. Prior to expiration of the original term, DIR and Vendor may extend the Contract, upon mutual agreement, for up to two (2) optional one-year terms.

Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

### **3. Product and Service Offerings**

#### **A. Products**

Products available under this Contract are limited to Wireless Voice and Data Products required for services offered in B. below as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their product offering; however, any changes must be within the scope of products awarded based on the posting described in Section 1.B above. Vendor may not add a manufacturer's product line which was not included in the Vendor's response to the solicitation described in Section 1.B above.

#### **B. Services**

Services available under this Contract are limited to Wireless Voice and Data Services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their service offering; however, any changes must be within the scope of services awarded based on the posting described in Section 1.B above.

#### **C. Emerging Technologies and Future Acquisitions**

DIR recognizes that technology is ever-evolving and advancing. DIR reserves the right to consider the addition of emerging technology such as next generation, enhancements and upgrades for products or services that are within the scope of Hardware, Software and Services for Wireless Voice, Data, Pagers and Mobile Satellite Voice services. Vendor may propose such products or services throughout the term of the contract as long as said product or service was initially bid in Vendor's response. Pricing and terms will be negotiated upon DIR acceptance. Any determination will be at DIR's sole discretion and any decision will be final.

### **4. Pricing**

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 8, Pricing, Purchase Orders, Invoices, and Payment, and as set forth in Appendix C, Pricing Index, and shall include the DIR Administrative Fee. Telecommunications Fees, Taxes, and Surcharges may not be included on Customer invoices unless they were submitted with response and verified as required by statute.

### **5. DIR Administrative Fee**

**A)** The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is two percent (2%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$2,000.

**B)** All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon

written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer.

**6. Notification**

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Dana L. Collins, CTPM, CTCM  
Director, Enterprise Contracts Management  
Department of Information Resources  
300 W. 15<sup>th</sup> St., Suite 1300  
Austin, Texas 78701  
Phone: (512) 936-2233  
Facsimile: (512) 475-4759  
Email: [dana.collins@dir.texas.gov](mailto:dana.collins@dir.texas.gov)

If sent to the Vendor:

Michaela Clairmonte, CPCM  
Manager, Contract Negotiations  
Sprint Solutions, Inc.  
12502 Sunrise Valley Drive, Mailstop: VARESA0208  
Reston, VA 20196  
Phone: (703) 433-8581  
Facsimile: (703) 433-8798  
Email: [Michaela.Clairmonte@sprint.com](mailto:Michaela.Clairmonte@sprint.com)

With a copy to:

Attn: VP Legal Dept. – Sales & Distribution  
Sprint Solutions, Inc.  
6391 Sprint Parkway  
Mailstop: KSOPHT0101-Z2525  
Overland Park, KS 66251-2525

**7. Software License and Service Agreements**

**A. Software License Agreement**

1) Customers acquiring software licenses under the Contract shall hold, use and operate such software subject to compliance with the Software License Agreement set forth in Appendix D of this Contract. No changes to the Software License Agreement terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix D. Order Fulfiller shall make the Software License Agreement terms and conditions available to all Customers at all times.

2) Compliance with the Software License Agreement is the responsibility of the Customer. DIR shall not be responsible for any Customer's compliance with the Software License Agreement. If DIR purchases software licenses for its own use under this Contract, it shall be responsible for its compliance with the Software License Agreement terms and conditions.

#### **B. Shrink/Click-wrap License Agreement**

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. **It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher.**

#### **C. Service Agreement**

Services provided under this Contract shall be in accordance with the Service Agreement as set forth in Appendix D of this Contract. No changes to the Service Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

#### **D. Conflicting or Additional Terms**

In the event that conflicting or additional terms in Service Agreements or linked via URL (excluding items covered by 7.A) or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this Contract; provided further that any update to such URL-linked documents shall only apply to purchases or leases of the associated Vendor product or service offering after the effective date of the applicable update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such URL-linked documents on or after the date of Vendor's final response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated or Customer acknowledges the update in writing at or before the time the purchase is consummated.

Vendor shall not [without prior written agreement from Customer's authorized signatory,] require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer. This paragraph applies to the contractual relationship between Vendor and Customer and does not negate the provisions of Paragraph 7.A. concerning Shrink/Click-wrap License Agreements.

The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer or Publisher.

**8. Authorized Exceptions to 1) RFO; 2) Contract; and 3) Appendix A, Standard Terms and Conditions for Product and Related Services Contracts.**

**A. RFO DIR-TSO-TMP-234, Exhibit A, Vendor Information Form, Section 18.2. Wireless Voice Services and Equipment Requirements, paragraph G is hereby replaced in its entirety with the following:**

Customers will be responsible for reporting lost or stolen wireless equipment. Vendor must have the ability to deactivate wireless equipment (within 2 hours for voice and data services can take up to 4 hours) upon receiving notice equipment is lost or stolen.

**B. RFO DIR-TSO-TMP-234, Exhibit A, Vendor Information Form, Section 18.7. Service Support Requirements, paragraph H is hereby replaced in its entirety with the following:**

Scheduled maintenance that will result in an outage requires an alert notification from Vendor to DIR of at least ten (10) business days, for Vendors providing a dedicated connection to the State of Texas network as described in Section 2.2. Related Services. Unscheduled services outages require immediate alert notification from Vendor to DIR. Also, whenever possible, any scheduled maintenance periods should be conducted during a maintenance window of midnight until 04:00 AM, preferably over weekends, beginning Friday night at 11:59 PM and extending to Monday morning at no later than 04:00 AM. All alerts will be sent to the DIR Help Desk.

In the event Vendor provides a direct Network-to-Network Interconnect (NNI) connection to the State of Texas Network, DIR will require notification of all

planned maintenance and service outages at least ten (10) business days in advance of servicing said NNI connection.

- C. Contract, Section 3. Product and Service Offerings, C. Emerging Technologies and Future Acquisitions** is hereby replaced in its entirety with the following:

DIR recognizes that technology is ever-evolving and advancing. DIR reserves the right to consider the addition of emerging technology such as next generation, enhancements and upgrades for products or services that are within the scope of Hardware, Software and Services for Wireless Voice, Data, Pagers and Mobile Satellite Voice services. DIR will review any emerging technologies or future solutions provided to DIR by Vendor and determine if they are within scope of the original proposal. If so, DIR will seek to reach agreement with Vendor on a contract amendment to include any approved new services/technologies and products required to activate and use new services/technologies. Pricing and terms will be negotiated upon DIR acceptance. Any determination will be at DIR's sole discretion and any decision will be final.

- D. Contract, Section 5. DIR Administrative Fee, B)** is hereby replaced in its entirety with the following:

All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated in the price to the Customer for subscribers activated after the new administrative fee became effective. Existing subscribers will continue to be calculated based on administrative fee in effect at the time of activation.

- E. Contract, Section 7. Software License and Service Agreements, A. Software License Agreement, 1)** is hereby replaced in its entirety with the following:

Customers acquiring software licenses under the Contract shall hold, use and operate such software subject to compliance with the Software License terms and conditions set forth in Appendix D of this Contract. No changes to the Software License terms and conditions may be made unless previously agreed to between Vendor and DIR. Customers may not add, delete or alter any of the language in Appendix D. Order Fulfiller/Vendor shall make the Software License terms and conditions available to all Customers at all times.

- F. Contract, Section 7. Software License and Service Agreements, B. Shrink/click-wrap License Agreement** is hereby replaced in its entirety with the following:

Regardless of any other provision or other license terms which may be issued by Vendor after the effective date of this Contract, and irrespective of whether any such provisions have been proposed prior to or after the issuance of a Purchase Order for products licensed under this Contract, or the fact that such other agreement may be affixed to or accompany software upon delivery (shrink-wrap), the terms and conditions set forth in this Contract shall supersede and govern the license terms between Customers and Vendor. **It is the Customer's responsibility to read the Shrink/Click-wrap License Agreement and determine if the Customer accepts the license terms as amended by this Contract. If the Customer does not agree with the license terms, Customer shall be responsible for negotiating with the reseller to obtain additional changes in the Shrink/Click-wrap License Agreement language from the software publisher. If Customer does not reach agreement on such changes, Customer shall not purchase or accept the products and/or service tied to the additional licensing terms.**

- G. Appendix A, Section 4 General Provisions, D. Assignment** is hereby updated in its entirety with the following:

DIR or Vendor may assign the Contract without prior written approval to: i) a successor in interest (for DIR, another state agency as designated by the Texas Legislature and for Vendor, entity that has purchased all or substantially all of its assets, and accepts all past, present, and future responsibilities under the Contract), or ii) a subsidiary, parent company or affiliate, or iii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority. Each party agrees to cooperate to amend the Contract as necessary to maintain an accurate record of the contracting parties. Assignment of the Contract under the above terms shall require written notification by the assigning party and, for Vendor, a mutually agreed written Contract amendment. Any other assignment by a party shall require the written consent of the other party and a mutually agreed written Contract amendment.

- H. Appendix A, Section 5. Intellectual Property Matters, Subsections A-L** is hereby replaced in its entirety with the following:

This Contract does not contemplate, authorize or support the development or acquisition of custom software products or services. If Vendor seeks to offer such products or services to DIR Customers, DIR and Vendor must amend this Contract to include such services.

- I. Appendix A, Section 7. Contract Fulfillment and Promotion, A. Service, Sales and Support of the Contract** is hereby replaced in its entirety with the following:

Vendor shall provide service, sales and support resources to serve all Customers throughout the State. It is the responsibility of the Vendor to sell, market, and promote products and services available under the Contract. Vendor shall use its

good faith efforts to ensure that potential Customers are made aware of the existence of the Contract. If Vendor has a written purchasing arrangement (“Purchasing Arrangement”) with Customer through an existing federal, cooperative or standalone contract held by Vendor that were executed prior to the effective date of this Contract that allows for additional purchases (“Preexisting Contract”), Vendor may sell to eligible DIR Customer through the Preexisting Contract until the expiration or earlier termination of the then-current term of such Purchasing Arrangement (Vendor shall not renew or extend such Purchasing Arrangement). Upon the expiration or termination of the then-current term of the Purchasing Arrangement (Vendor shall not renew or extend such Purchasing Arrangement), if Vendor retains such eligible DIR Customer, then Vendor must transition Customer to the DIR Contract.

- J. Appendix A, Section 7. Contract Fulfillment and Promotion, E. Internet Access to Contract and Pricing Information. 5) Use of Access Data Prohibited** is hereby replace in its entirety with the following:

If Vendor stores, collects or maintains data electronically as a condition of accessing Contract information, such data shall only be used internally by Vendor (and its Affiliates, agents and consultants with a need to know, if they are subject to a confidentiality agreement) for the purpose of implementing or marketing the Contract, and shall not be disseminated to third parties or used for other marketing purposes except as required by applicable law. The Contract constitutes a public document under the laws of the State and Vendor shall not restrict access to Contract terms and conditions including pricing, i.e., through use of restrictive technology or passwords.

- K. Appendix A, Section 8. Pricing, Purchase Orders, Invoices, and Payments, C. Customer Price, 3)** is hereby replaced in its entirety with the following:

If pricing for products or services available under this Contract are provided at a lower price to: (i) an eligible Texas Customer who is not purchasing those products or services under this Contract or (ii) to any other Texas customer under the same terms and conditions provided for the State for the same commodities and services under this contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to products or services quoted to Texas Customers by Vendor or its resellers for a quantity of one (1) under like terms and conditions, and does not apply to volume or special pricing purchases or to any purchases outside the State of Texas. This Contract shall be amended within ten (10) business days to reflect the lower price.

- L. Appendix A, Section 8. Pricing, Purchase Orders, Invoices, and Payments, D. Telecommunications Fees and Surcharges and Taxes, (a)** is hereby replaced in its entirety with the following:



The Federal Universal Service Fund charge is an applicable FCC authorized surcharge in effect as of the date of this Contract and will be charged on Customer invoices. Any FCC, PUC or other authorized telecommunications taxes, fees and surcharges applicable to any Service may only be imposed: (i) if the Vendor listed them in Bid Package 2 upon submission of Offer, or (ii) if the tax or fee is initially imposed by a governmental entity after the effective date of this Contract; and (iii) in the event of (ii), DIR and Vendor shall execute a written amendment to authorize such imposition under the Contract. Vendor acknowledges that certain Customers that are political subdivisions of the State, are exempt from the imposition and collection of certain State telecommunications fees, including the Texas Universal Service Fund Charge and the Texas Infrastructure Fund assessment. In addition, State agency Customers have additional exemptions from State telecommunications fees, including the 9-1-1 emergency service fee, 9-1-1 equalization surcharge, poison control surcharge, and late charges imposed under Section 55.010, Texas Utilities Code. Vendor agrees to not bill for any items which are not mandated by the FCC, PUC or other proper authority and which are otherwise not applicable to the Services and for which Vendor has requested and received valid exemption certificates from Customers. Vendor agrees to promptly correct any incorrect billings of telecommunications fees and surcharges that occur. Vendor acknowledges that DIR makes no representations about the exemption status of any Customers that are assistance organizations, as defined in Section 2175.001, Texas Government Code or certain private institutions of higher education under Section 2170.004 (5), Texas Government Code. Vendor must request and receive any exemption certificates that may apply from each such organization directly.

**M. Appendix A. Section 8. Pricing, Purchase Orders, Invoices, and Payments, K. Changes to Prices, 1)** is hereby replaced in its entirety with the following:

Price increase change requests must be requested with a signed cover letter indicating the change in price. Price increase requests must be accompanied by a copy of the manufacturer or publisher's price list.

**N. Appendix A. Section 8. Pricing, Purchase Orders, Invoices, and Payments, K. Changes to Prices,** is hereby amended by adding a new paragraph 4) Electronic Administrative Update (EAU) Process as follows:

The parties agree to use the Electronic Administrative Update Process (EAU) to submit, review and implement administrative changes to *Appendix C, Pricing Index*. Administrative updates may include, but are not limited to price decreases, format corrections, or the addition of new services that were not available at the time of submission to the RFO and that are within the original scope of the RFO. *Appendix C, Pricing Index* changes shall be provided to Customers via the Vendor's webpage and the DIR Contract web page.

- O. Appendix A. Section 9. Contract Administration, B. Reporting and Administrative Fees, 4) DIR Administrative Fee, a)** is hereby replaced in its entirety with the following:

The applicable CRF/administrative fee shall be paid by Vendor to DIR to defray the DIR costs of negotiating, executing, and administering the Contract. The maximum administrative fee is set by the Texas Legislature in the biennial General Appropriations Act. Payment of the CRF fee shall be due on the seventeenth (17th) calendar day after the close of the previous month period. If the seventeenth calendar day falls on a non-business day, the administrative fee shall be due on the next business day. DIR may change the amount of the administrative fee upon thirty (30) calendar days written notice to Vendor without the need for a formal contract amendment.

- P. Appendix A. Section 10. Vendor Responsibilities, A. Indemnification, 2)** is hereby replaced in its entirety with the following:

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD PARTY LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES that is alleged to have resulted, in whole or in part, from the negligent, reckless, willful, intentional, or otherwise wrongful acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

- Q. Appendix A. Section 10. Vendor Responsibilities, Section S. Secure Erasure of Hard Disk Products and/or Services**

Vendor agrees that all products and/or services equipped with hard disk drives (i.e. computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the hard drive prior to final disposition of such products and/or services, either at the end of the Customer's wireless Product's useful life or the end of the related Service Agreement Terms in Appendix D for such wireless Products and/ Services, in accordance with 1 TAC 202.

- R. Appendix A. Section 10. Vendor Responsibilities, Section T. Deceptive Trade Practices; Unfair Business Practices, 1)** is hereby replaced in its entirety with the

following:

Vendor represents and warrants that (i) neither Vendor nor any of its Subcontractors within the last three years have been found liable in any administrative hearing, litigation or other proceedings of Deceptive Trade Practices violations as defined under Chapter 17, Texas Business & Commerce Code, and (ii) it has no officers who have been found liable in any administrative hearing, litigation or other proceedings of Deceptive Trade Practices violations under Chapter 17, Texas Business and Commerce Code.

**S. Appendix A. Section 10. Vendor Responsibilities, Section W. Vendor Reporting Requirements** is hereby replace in its entirety with the following:

Vendor shall comply with Subtitle C, Title 5, Business & Commerce Code, Chapter 109 as added by HB 2539 of the 83rd Texas Legislature, Regular Session requiring computer technicians to report images of child pornography. Vendor and DIR acknowledge this Contract is for telecommunications services.

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This Contract is executed to be effective as of the date of last signature.

**Sprint Solutions, Inc.**

**Authorized By:** Signature on File

**Name:** John Stevens

**Title:** Regional President

**Date:** 3/6/2017

**The State of Texas, acting by and through the Department of Information Resources**

**Authorized By:** Signature on File

**Name:** Wayne Egeler

**Title:** CTS Director

**Date:** 3/9/2017

**Office of General Counsel:** Initials on File 3/9/2017